

other identification of the shipment; and

(vii) The following statement, if the facts warrant: Meets import requirements of 7 U.S.C. 608e-1.

(g) *Reconditioning prior to importation.* Nothing contained in this part shall be deemed to preclude any importer from reconditioning prior to importation any shipment of onions for the purpose of making it eligible for importation.

(h) *Definitions.* For the purpose of this section, *Onions* means all varieties of *Allium cepa* marketed dry, except dehydrated, canned, or frozen onions, pickling onions in brine, onion sets, green onions, or braided red onions. The term *U.S. No. 2* has the same meaning as set forth in the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 2851.3195 through 2851.3209), the United States Standards for Grades of Creole Onions (7 CFR 2851.3955 through 2851.3970), or the United States Standards for Grades of Onions Other Than Bermuda-Granex-Grano and Creole Types (7 CFR 2851.2830 through 2851.2854), whichever is applicable to the particular variety, and variations thereof specified in this section. The term *moderately cured* means the onions are mature and are more nearly well cured than fairly well cured. *Importation* means release from the custody of U.S. Customs and Border Protection. The term *pearl onions* means onions produced using specific cultural practices that limit growth to 2 inches in diameter or less.

(i) *Exemptions.* The grade, size, quality and maturity requirements of this section shall not be applicable to onions imported for processing, livestock feed, charity, or relief, and pearl onions, onion sets (plantings), braided red onions, and minimum quantity shipments of 110 pounds, but such onions shall be subject to the safeguard provisions in § 980.501. Processing includes canning, freezing, dehydration, extraction (juice) and pickling in brine. Processing does not include fresh chop, fresh cut, convenience food or other pre-packaged salad operations. Pearl

onions must be inspected for size prior to entry into the United States.

[43 FR 5500, Feb. 9, 1978, as amended at 52 FR 8872, Mar. 20, 1987; 52 FR 19281, May 22, 1987; 54 FR 8520, Mar. 1, 1989; 58 FR 69189, Dec. 30, 1993; 59 FR 46912, Sept. 13, 1994; 61 FR 13060, Mar. 26, 1996; 61 FR 25557, May 22, 1996; 69 FR 56671, Sept. 22, 2004]

§ 980.212 Import regulations; tomatoes.

(a) *Findings and determinations with respect to fresh tomatoes.* (1) Under Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), it is hereby found that:

(i) Grade, size, quality and maturity regulations have been issued from time to time under Marketing Order No. 966, as amended;

(ii) The marketing of fresh tomatoes from Florida covered by Marketing Order No. 966, as amended, can reasonably be expected to occur during the months of October through June;

(2) Therefore, it is hereby determined that imports of fresh tomatoes during the months of October through June are in most direct competition with the marketing of fresh tomatoes produced in Florida covered by Marketing Order No. 966, as amended.

(b) *Grade, size, quality and maturity requirements.* On and after the effective date hereof no person may import fresh tomatoes except pear shaped, cherry, hydroponic and greenhouse tomatoes as defined herein, or tomatoes to be used in noncommercial outlets for experimental purposes, unless they are inspected and meet the following requirements;

(1) From October 10 through June 15 of each season, tomatoes offered for importation shall be at least 2³/₃₂ inches in diameter. Not more than 10 percent, by count, in any lot may be smaller than the minimum specified diameter. All lots of tomatoes shall be at least U.S. No. 2 grade.

(2) Prior to importation of tomatoes to be used in noncommercial outlets for experimental purposes, the importer shall apply for and obtain from the Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, DC 20250, an approved Certificate for Special Purpose Shipment, complete Part I and comply with all procedures specified

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thereon. A separate certificate is required for each shipment. Three copies of the certificate shall accompany shipment, of which one copy shall be surrendered to the Federal or Federal-State Inspector of the U.S. Department of Agriculture at the port of entry.

(3) Upon completion of shipment receiver making final disposition of the tomatoes shall complete Part II of the Certificate. Importer shall be responsible for the return, within 10 days, of a signed copy of the certificate to the Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, DC 20250, certifying that the tomatoes were used for the purpose specified thereon.

(c) *Minimum quantity exemption.* Any importation which in the aggregate does not exceed 60 pounds may be imported without regard to the provisions of this section.

(d) *Plant quarantine.* Provisions of this section shall not supersede the restrictions or prohibitions on tomatoes under the Plant Quarantine Act of 1912.

(e) *Designation of Governmental inspection service.* The Federal or the Federal-State Inspection Service, Food Safety and Quality Service, United States Department of Agriculture, and the Fruit and Vegetable Division, Production and Marketing Branch, Canada Department of Agriculture, are designated as governmental inspection services for certifying the grade, size, quality and maturity of tomatoes that are imported into the United States under the provisions of Section 8e of the act.

(f) *Inspection and official inspection certificates.* (1) An official inspection certificate certifying the tomatoes meet the United States import requirements for tomatoes under Section 8e (7 U.S.C. 608e-1), issued by a designated governmental inspection service and applicable to a specified lot is required on all imports of fresh tomatoes.

(2) Inspection and certification by the Federal or Federal-State Inspection Service will be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables and other products (7 CFR part 2851). Each lot shall be made available and accessible for inspection as provided therein. Cost

of inspection and certification shall be borne by the applicant.

(3) Since the inspectors may not be stationed in the immediate vicinity of some smaller ports of entry, importers should make advance arrangements for inspection by ascertaining whether or not there is an inspector located at their particular port of entry. For all ports of entry where an inspection office is not located, each importer must give the specified advance notice to the applicable office listed below prior to the time the tomatoes will be imported.

Ports	Office	Advance notice (days)
All Texas points	Officer-in-charge, 1301 West Expressway, Alamo, Tex. 78516, phone 512-787-4091 or 6881.	1
All Arizona points	Officer-in-charge, P.O. Box 1614, Nogales, Ariz. 85621, phone 602-287-2902.	1
All California points ..	Officer-in-charge, 784 South Central Ave., room 266, Los Angeles, Calif. 90021, phone 213-688-2489.	1
All Hawaii points	Officer-in-charge, P.O. Box 22159, Pawa substation, Honolulu, Hawaii 96822, phone 808-941-3071.	1
All Puerto Rico points	Officer-in-charge, P.O. Box 9112, Santurce, P.R. 00908, phone 809-783-2230 or 4116.	2
New York, N.Y.	Officer-in-charge, room 28A, Hunts Point Market, Bronx, N.Y. 10474, phone 212-991-7669 or 7668.	1
New Orleans, La.	Officer-in-charge, 5027 U.S. Postal Service Bldg., 701 Loyola Ave., New Orleans La. 70113, phone 504-589-6741 or 6742.	1
Miami, Fla.	Officer-in-charge, 1350 Northwest 12th Ave., room 530, Miami, Fla. 33136, phone 305-324-6116 or 6117.	1
All other Florida points.	Officer-in-charge, P.O. Box 1232, Winter Haven, Fla. 33880, phone 813-294-3511, ext. 33.	1
All other points	Chief, Fresh Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, Washington, DC 20250, phone 202-447-5870.	3

(4) Inspection certificates shall cover only the quantity of tomatoes that is

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being imported at a particular port of entry by a particular importer.

(5) Each inspection certificate issued with respect to any tomatoes to be imported into the United States shall set forth, among other things:

- (i) The date and place of inspection;
- (ii) The name of the shipper, or applicant;
- (iii) The commodity inspected;
- (iv) The quantity of the commodity covered by the certificate;
- (v) The principal identifying marks on the containers;
- (vi) The railroad car initials and number, the truck and trailer license number, the name of the vessel, or other identification of the shipment; and
- (vii) The following statement, if the facts warrant: Meets import requirements of 7 U.S.C. 608e-1.

(g) *Reconditioning prior to importation.* Nothing contained in this part shall be deemed to preclude any importer from reconditioning prior to importation any shipment of tomatoes for the purpose of making it eligible for importation.

(h) *Definitions.* For the purpose of this section, *Importation* means release from custody of the United States Bureau of Customs. *Cherry tomatoes* means cerasiform types commonly referred to as "cherry tomatoes." *Pear shaped tomatoes* means elongated types, commonly referred to as pear shaped or paste tomatoes and include San Marzano, Red Top and Roma varieties. *Hydroponic tomatoes* means tomatoes grown in solution without soil. *Greenhouse tomatoes* means tomatoes grown indoors. The terms relating to grade and size, as used herein, shall have the same meaning as when used in the U.S. Standards for Grades of Fresh Tomatoes (7 CFR 2851.1855 to 2851.1877; title 7, chapter I, part 51 was redesignated title 7, chapter 28, part 2851 on June 27, 1977).

(i) *Exemptions.* The grade, size, quality and maturity requirements of this section shall not apply to tomatoes for charity, relief, canning or pickling, but such tomatoes shall be subject to the safeguard provisions contained in

§ 980.501. Processing includes canning and pickling.

[42 FR 55192, Oct. 14, 1977, as amended at 43 FR 3349, Jan. 25, 1978; 57 FR 27352, June 19, 1992; 58 FR 69189, Dec. 30, 1993; 61 FR 13060, Mar. 26, 1996; 63 FR 12401, Mar. 13, 1998]

§ 980.501 Safeguard procedures for potatoes, onions, and tomatoes exempt from grade, size, quality, and maturity requirements.

(a) Each person who imports:

(1) Potatoes, onions or tomatoes for consumption by charitable institutions or distribution by relief agencies;

(2) Potatoes, onions, or tomatoes for processing;

(3) Potatoes or onions for livestock feed; or

(4) Pearl onions, shall obtain an "Importer's Exempt Commodity Form" (FV-6) from the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, and shall show the completed "Importer's Exempt Commodity Form" to the U.S. Customs Service Regional Director or District Director, as applicable, at the port at which the customs entry is filed. One copy shall be mailed to the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA with a postmark no later than two days after the date of importation and a third copy shall accompany the lot to the exempt outlet specified on the form. Any lot offered for inspection and, all or a portion thereof, subsequently imported as exempt under this provision shall be reported on an "Importer's Exempt Commodity Form" and such form, accompanied by a copy of the applicable inspection certificate, shall be mailed to the Marketing Order Administration Branch.

(b) Each person who receives an exempt commodity for the purposes specified in paragraph (a) of this section shall also receive a copy of the same numbered Importer's Exempt Commodity Form filed by the importer or customs broker and shall certify, by completing and signing Section II of the form and mailing the form to the Marketing Order Administration Branch within two days of receipt of the exempt lot, that such lot has been received and will be utilized in the exempt outlet.